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EXAMINER

VIG, NARESH

ART UNIT	PAPER NUMBER
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3629

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 17

Application Number: 09/533,325
Filing Date: March 22, 2000
Appellant(s): MEGIDDO, NIMROD

MAILED

NOV 18 2003

GROUP 3600

Marc D. McSwain (Reg. No. 44,929)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 15 August 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that all appealed claims stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,144,943	Minder	11-2000
6,381,610	Gundewar et al.	04-2002
6,122,633	Leymann et al.	6,122,633

Blanche Evans, "Electronic Transactions Ar The Future, Says NAR President", 08
March 1999, RealtyTimes.com

Information on New York Times, 1999, printed through www.archive.org

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 – 6 and 12 – 20 are unpatentable under 35 U.S.C. 103(a) over Minder US Patent 6,144,943 in view of Gundewar et al. US Patent 6,381,610 hereinafter known as Gundewar and further in view of an article “Electronic Transactions Are The Future, Says NAR President” by Blanche Evans hereinafter known as Evans.

Regarding claims 1, 12 and 16, Minder discloses a method and apparatus including a computer system for managing contract housekeeping services so as to improve the quality and value of the housekeeping services received. The method invention comprises a series of actions in order to generate a grade representative of the quality of housekeeping services. This grade is then used to make at least one decision regarding the management of housekeeping services. The management having an impact upon the physical appearance and maintenance of a given facility.

(abstract)

Minder’s method for using a computer system to manage contract housekeeping services comprising a series of steps. The first step of the method includes storing in the computer system a plurality of variables describing specific housekeeping service tasks. The next step includes defining a plurality of possible performance criteria scores

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probative of the plurality of variables. The next step includes receiving in the computer system user input operative to select a subset of the plurality of variables which are applicable to housekeeping for a given facility and then receiving in the computer system the actual performance criteria scores for the selected subset of variables. The computer system is then used to process the actual performance criteria scores and to output a grade representative of the quality of housekeeping services. This grade is then used to make at least one decision regarding management of housekeeping services, the management having an impact upon the physical appearance and maintenance of the given facility. The grade may be used to determine compensation for specific housekeeping services. Also, the grade may be used to determine whether or not to continue contract housekeeping services with the specific provider being evaluated. In another aspect, the grade may be used to implement improvements with respect to specific housekeeping service tasks. (col. 2, lines 5 – 29)

Minder does not disclose notification to contracting parties. Gundewar discloses a method for automated project planning. Entry and exit criteria may include milestones approvals, procedure completions, and/or design or production events necessary to enter or exit the particular process (col. 5, lines 58 – 61). Project repository module may generate and initiate electronic mail communication (notification) to team members (col. 7, lines 33 – 37). Therefore, it is known at the time of applicant's invention to a person with ordinary skill in the art to notify contracting parties to avoid the contract from becoming unenforceable due to not meeting the contract terms.

Neither Minder nor Gundewar disclose to retrieve information from independent sources. However, Evans states that "The promise of XML is that REALTORS, their clients, and service providers pertinent to the real estate transaction will each be able to communicate with equal ease using the Internet. Just as important, all communication will be password protected to assure the privacy of the client.

Instead of the pieces of the real estate transaction coming together only at closing, they will join at the beginning of the transaction - when the contract is placed in a secured environment on the Internet. Each service provider will work with the REALTOR to provide on-time on-line service delivery and accurate data entry. "

Evans discloses that the way managing the transaction will work is that once a contract has been signed, a password protected transaction file will be placed on the Internet. All parties to the transaction will be able to access and deliver information (information from independent sources) to their protected area. The REALTOR will open the file with the contract. From there, s/he will monitor the other key players, making sure that each performs as they should. The lender will deliver loan approval on-line to the file. The inspector will file his/her report on-line. The title company, or closing agent will set the closing date - on-line. All key players and their information will add their pieces of transaction data at the appropriate times, prompted by the REALTOR. Therefore, it is known at the time of invention to a person with ordinary skill in the art to retrieve the information from independent sources to be able to share the information seamlessly, and, to provide the most current status to the parties involved in the transaction.

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Also, Minder does not disclose plurality of interconnecting computing devices. Gundewar disclose the computer to be part of interconnecting computing devices. Therefore, it is known at the time of invention to a person with ordinary skill in the art to implement the system of interconnected computing devices to make the system accessible at plurality of locations. For example, the system like America Online is accessible from plurality of locations like offices, malls, cyber café etc.

Regarding claim 2, Minder discloses defining a plurality of possible performance criteria scores probative of the plurality of variables. (col2, lines 10 – 12)

Regarding claim 3, Minder does not disclose responding to the event when a criteria is not met. Gundewar disclose that its project repository module may restrict further completion of the particular procedure or subsequent procedures until all templates have completed and submitted, by electronic mail for example, by team members. Project repository module may also automatically process all of such templates and generate a summary template based on the data in each of such templates. The summary template and team member templates may all be stored in project workspace. (col. 8 line 62 – col. 9, line 3)

Regarding claim 4, Minder does not disclose retrieving information from remote locations. Gundewar discloses that "Communication link may be a dedicated or switched link over a public switched telephone network (PSTN), a satellite link, a microwave link, or other appropriate communications link between clients and server. The components of system may be part of a local area network (LAN), wide area network (WAN), or other suitable network of interconnected computing devices. In a particular embodiment, components in system communicate over the Internet using the World Wide Web (WWW), file transfer protocol (FTP), Telnet, Usenet, Gopher or Archie utility, electronic mail, bulletin boards, or other communication technique. For example, server and clients may maintain and execute a browser or other suitable program for accessing and communicating information addressed by a uniform resource locator (URL) using link (col. 3, lines 9 – 23). Therefore, it is known at the time of applicant's invention to a person with ordinary skills in the art to retrieve information from remote locations to make the system a distributed system and give remote access to the information to its users.

Regarding claim 5 – 6, 13 – 15 and 19, Minder does not disclose sending reminders and receiving input from users. Gundewar discloses that the project repository module may restrict further completion of the particular procedure or subsequent procedures until all templates have completed and submitted, by electronic mail for example, by team members. Project repository module may also automatically

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process all of such templates and generate a summary template based on the data in each of such templates. The summary template and team member templates may all be stored in project workspace (col. 8 line 62 – col. 9, line 3). Therefore, it is known at the time of applicant's invention to a person with ordinary skills in the art send reminders (notify parties involved, business prefer sending reminders using electronic mail to log the messages) and receive input (response) from the users to complete tasks and continue further with the project.

Regarding claim 17 – 18 and 20, Minder does not disclose maintaining milestones. Gundewar discloses milestones, approvals, procedure completions, and/or design or production events necessary to enter or exit the particular process (see FIG. 4). Therefore, it is known at the time of invention to a person with ordinary skill in the art to maintain milestones for a project to make the system useful for its users. For example, if the system does not manage the milestones, then the project manager may not want to use the system.

Claims 7 - 11 are unpatentable under 35 U.S.C. 103(a) over Minder US Patent 6,144,943 in view of Gundewar et al. US Patent 6,381,610 hereinafter known as Gundewar and further in view of an article "Electronic Transactions Are The Future,

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Says NAR President" by Blanche Evans hereinafter known as Evans and Leymann et al. US Patent 6,122,633 hereinafter known as Leymann.

Regarding claim 7, neither Minder nor Gundewar disclose recording / logging responses for retrieval. Leymann discloses a workflow-management-system (WFMS). WFMSs manage the execution of business processes. These business process typically are performed in a distributed environment. Typically workflow management system write an audit trail. Audit trail contains a record for each major event, such as start or termination of a process or an activity. The audit trail of WFMS represents a huge potential source of information (col. 2, line 65 – col3, line 5). It allows the team members to work independently on different activities. Program and process activities can be associated with a time limit. The time limit specifies how long the activity may take. If the time is exceeded, a designated person is notified. If this person does not react within another time limit, the process administrator is notified. It not only helps to recognize critical situation but also to detect process deficiencies as all notifications are recorded in an audit trail. Therefore, it is known at the time of applicant's invention to a person with ordinary skills in the art to record and keep track of the information to keep an audit trail.

Regarding claim 8, it is known at the time of applicant's invention to a person with ordinary skill in the art that a project manager or a contract manager goes into idle state

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(wait state) monitoring time and progress (to avoid delay in the project implementation) until an event has occurred (there is an update status to the project), or, the milestone is not achieved (passed the deadline). (see the uses of Gantt Chart, Microsoft Project (one of the computer tools used by project managers has been commercially available prior to the time of the invention) provide Gantt Charts to its users).

Furthermore, it has generally been recognized that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Regarding claim 9, it is known at the time of applicant's invention to a person with ordinary skill in the art that a project manager or contract manager is required to notify its clients when a contract has failed because the terms and conditions of the contract were not met by the responsible parties (for example, in a real estate transaction, when the contingency clauses are not met as per the terms of the contract, i.e. it does not meet requirements of both parties, it is deemed to have failed to perform and is cancelled).

Furthermore, it has generally been recognized that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Regarding claim 10, it is known at the time of applicant's invention to a person with ordinary skill in the art that a project manager or contract manager is required to notify its clients when a terms and conditions of the contracts have been satisfied, and, that the contract is a valid and enforceable contract (for example, in a real estate transaction, when the contingency clauses are met as per the terms of the contract, i.e. neither parties have any more contingencies on the contract, it is deemed to be a valid and enforceable contract).

Furthermore, it has generally been recognized that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Regarding claim 11, it is known at the time of applicant's invention to a person with ordinary skill in the art that a project manager or contract manager is required to notify its clients when a milestone is not achieved to fulfill the requirements of the contingencies on the contract. (for example, in a real estate transaction, when there is a delay in meeting a contingency on the contract, the agent will notify their client to inform the delay on a contingency and take the action as per the instructions from their client).

Furthermore, it has generally been recognized that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Claims 21 – 22 are unpatentable under 35 U.S.C. 103(a) over Minder US Patent 6,144,943 in view of Gundewar et al. US Patent 6,381,610 hereinafter known as Gundewar and further in view of an article "Electronic Transactions Are The Future, Says NAR President" by Blanche Evans hereinafter known as Evans and website of New York Times hereinafter known as NYTimes.

Regarding claims 21 – 22, neither Minder nor Gundewar disclose the retrieved information to include at least one of weather, prime rate, mortgage rate etc. However, NYTimes discloses system and method to retrieve information from an independent source and display for the user. Therefore, it is known at the time of invention to a person with ordinary skill in the art to display information from independent sources to make the system provide information of interest to the user and make the system cost effective by minimizing on the investment otherwise required to provide the information to the user.

(11) Response to Argument

In response to applicant's argument that the invention relates to automated commerce management and handling of contingency agreements. It is known to one of ordinary skill in the art at the time the invention was made to Commerce management and handling of contingency agreements were manually done by a program manager. For example, in a real estate transaction a buyer is represented by an agent. After the contract is ratified (both parties agree to the terms and conditions in the contract), agent functions as a program manager to ensure that the dead lines (milestones) in the contract are satisfied to avoid the contract from becoming null and void. The contract may have contingency that the home inspection is done in 4 days, loan approval is acquired in 7 days, termite inspection is done in 30 days prior to settlement etc. As the contingencies are satisfied (milestones are met), contract is still in force. In the event when a milestone is not satisfied, agent informs representative of the parties involved about the situation to keep all parties informed.

To satisfy the Home Inspection contingency, the buyer hires a licensed home inspector (Third party) to conduct the home inspection within 4 days (time agreed in the contract). After the home inspection is completed, the home inspector gives a report of the inspection to the buyer. The buyer has an option to ask the seller to make repairs. When the buyer asks the seller to make repairs, agent prepares an addendum by listing list of repairs that need to be made prior to settlement (agent manually enters this

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information into an amendment form) is sent to the seller. Seller has 3 days (another milestone) to respond buyer's request. The seller has an option to make repairs or compensate the buyer, reject the repair request (which gives buyer an option to declare the contract null and void). Agent informs the buyer about the seller's response. In the situation, when the seller does not respond within 3 days (milestone has passed), buyer agent informs (task to be completed upon certain condition) that the seller will satisfy the requirements of the addendum (seller missed the milestone of 3 days).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to automate the manual process of project management to save on resources required to manage a project and free the project manager to take additional tasks (In re Venner, 262 F.2d 91, 120 USPQ 192 (CCPA 1958)).

For the above reasons, it is believed that the rejections should be sustained.

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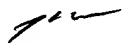
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November 14, 2003

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